

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #12	CCRB Case #: 201701497	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/23/2017 5:30 AM	Location of Incident: [REDACTED]	Precinct: 76	18 Mo. SOL 8/23/2018	EO SOL 8/23/2018	
Date/Time CV Reported Mon, 02/27/2017 11:05 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/27/2017 11:05 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Devin Baker	28634	952439	076 PCT
2. Officers			
3. SGT Charles Schwartz	5458	947478	076 PCT
4. SDS Patrick Quigley	00005	934081	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Feller	02319	956640	076 PCT
2. POM Joseph Moloney	10143	954144	076 PCT
3. POM Joseph Gonzalez	09416	938594	076 PCT
4. POM Julio Rodriguez	22668	939344	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Charles Schwartz	Abuse: Sergeant Charles Schwartz entered § 87(2)(b) in Brooklyn.	[REDACTED]
B.SDS Patrick Quigley	Abuse: Sergeant Patrick Quigley entered At § 87(2)(b) in Brooklyn.	[REDACTED]
C.POM Devin Baker	Abuse: Police Officer Devin Baker searched § 87(2)(b) in Brooklyn.	[REDACTED]
D.SGT Charles Schwartz	Abuse: Sergeant Charles Schwartz searched § 87(2)(b) in Brooklyn.	[REDACTED]
E.SGT Charles Schwartz	Discourtesy: At § 87(2)(b) in Brooklyn, Sergeant Charles Schwartz spoke discourteously to § 87(2)(b).	[REDACTED]
F.SDS Patrick Quigley	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Patrick Quigley questioned § 87(2)(b).	[REDACTED]
G.SDS Patrick Quigley	Discourtesy: At the 76th Precinct stationhouse, Sergeant Patrick Quigley spoke discourteously to § 87(2)(b).	[REDACTED]
H.SDS Patrick Quigley	Abuse: At the 76th Precinct stationhouse, Sergeant Patrick Quigley threatened to arrest § 87(2)(b) to § 87(2)(b).	[REDACTED]
I.SDS Patrick Quigley	Abuse: At the 76th Precinct stationhouse, Sergeant Patrick Quigley threatened to damage § 87(2)(b)'s property to § 87(2)(b).	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
J. Officers	Abuse: At § 87(2)(b) in Brooklyn, Officers damaged § 87(2)(b) s property.	
K. Officers	Abuse: At § 87(2)(b) in Brooklyn, officers damaged § 87(2)(b) s property.	

Case Summary

On February 27, 2017, § 87(2)(b) filed this complaint via telephone on behalf of himself, his wife § 87(2)(b) and his step-son § 87(2)(b).

On February 23, 2017, at approximately 5:30 a.m., Sergeant Charles Schwartz, Police Officer Devin Baker, Police Officer Joseph Moloney, Police Officer Robert Feller, Police Officer Joseph Gonzales (all of the 76th Precinct), and Sergeant Patrick Quigley (of the Intelligence Bureau) entered § 87(2)(b)'s apartment, located at § 87(2)(b) in Brooklyn, and arrested § 87(2)(b) (**Allegation A and B**). Sgt. Schwartz and PO Baker allegedly searched § 87(2)(b)'s bedroom (**Allegations C and D**). Sgt. Schwartz allegedly held § 87(2)(b)'s hunting knife and said, "Your fucking son is an asshole. What is he going to do with this?" (**Allegation E**). Sgt. Quigley allegedly questioned § 87(2)(b) as to the whereabouts of firearms in her daughters' possession (**Allegation F**).

A search warrant was obtained and the § 87(2)(b) and § 87(2)(b) were transported to the 76th Precinct stationhouse.

Sgt. Quigley allegedly said to § 87(2)(b) "Give me the fucking gun," and he threatened to arrest his wife if he did not tell. Sgt. Quigley also allegedly threatened to destroy § 87(2)(b)'s apartment (**Allegations G, H, and I**).

Upon returning to the apartment, § 87(2)(b) observed broken furniture, paint spilled on the floor of the apartment, and her bath tub filled to the top with water and toiletries and paint on § 87(2)(b)'s clothing (**Allegation J and K**).

Both § 87(2)(b) and § 87(2)(b) were arrested as a result of this incident and charged with criminal possession of a weapon and criminal and unlawful possession of marijuana.

This case is older than 90 days due to delays in interviewing civilians and officer identification issues.

There is no video evidence in this case.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to arrests without the issuance of DATs.
- As of August 11, 2017, the Notice of Claim inquiry with the NYC Comptroller's Officer was still pending.
- § 87(2)(b) [REDACTED]
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (Board Review 02).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (Board Review 03).

Civilian and Officer CCRB Histories

- This is the second CCRB complaint filed by § 87(2)(b) the first of which was closed as complainant uncooperative (Board Review 04).

- This is the first CCRB complaint filed by or on behalf of § 87(2)(b) (Board Review 05).
- This is the first CCRB complaint filed by or on behalf of § 87(2)(b) (Board Review 06).
- This is the first CCRB complaint filed against Sergeant Charles Schwartz, who has been a member of service for nine years (see officer history).
- This is the 10th CCRB complaint filed against Sergeant Patrick Quigley, who was a total of 23 allegations in his CCRB history and has been a member of service for 13 years (see officer history). Of the 23 allegations made against Sgt. Quigley, 15 were fully investigated and two were substantiated. In CCRB case number 201200818, frisk and stop allegations were substantiated and the Board recommended charges; however, Sgt. Quigley was found not guilty and no penalty was issued by the NYPD. Three discourtesy – word allegations were made against Sgt. Quigley; two of which were unsubstantiated and one was exonerated.
- This is the fifth CCRB complaint filed against Police Officer Devin Baker, who has a total of seven allegations in his CCRB history and has been a member of service for five years (see officer history). Of the seven allegations made against PO Baker, five were fully investigated and none were substantiated. § 87(2)(g)

Findings and Recommendations

Allegation A -Abuse: Sergeant Charles Schwartz entered § 87(2)(b) in Brooklyn.

Allegation B -Abuse: Sergeant Patrick Quigley entered § 87(2)(b) in Brooklyn.

It is undisputed that on February 23, 2017, Sgt. Quigley, Sgt. Schwartz, and additional members of the 76th Precinct's anti-crime team (the team) went to § 87(2)(b) in Brooklyn to apprehend § 87(2)(b) on a bench warrant. It is also undisputed that the conversation at the door of the apartment consisted of Sgt. Schwartz informing the occupants that the officers were at the location specifically to apprehend § 87(2)(b). Sgt. Schwartz asking if § 87(2)(b) was inside of the location, and § 87(2)(b) and § 87(2)(b) informing the officers that § 87(2)(b) was inside of the apartment and asleep in his bedroom. Finally, it is undisputed that the officers entered the apartment and went into § 87(2)(b)'s bedroom and they arrested him.

People v. Paige, 77 A.D.3d 1193 (2010) Prior to officers entering a location on the authority of an active arrest warrant, they must 1) Give a notice of entry and purpose for entry and 2) have a reasonable belief that the subject of the arrest warrant is present within the residence (Board Review 08).

§ 87(2)(g)

Allegation C -Abuse: Police Officer Devin Baker searched § 87(2)(b) in Brooklyn.

Allegation D -Abuse: Sergeant Charles Schwartz searched § 87(2)(b) in Brooklyn.

It is undisputed that PO Baker and Sgt. Schwartz found marijuana and a weapon in § 87(2)(b)'s bedroom prior to attaining Search Warrant # § 87(2)(b) (Board Review 07). However, what is in dispute is whether officers found the marijuana and knife in plain view on a dresser or if the marijuana was recovered from a laundry bag. While it is established that marijuana was found in a laundry bag, it is in dispute if this marijuana was recovered prior to or after the warrant was obtained.

Both § 87(2)(b) (Board Review 10) and § 87(2)(b) (Board Review 09) stated that after the officers apprehended § 87(2)(b), § 87(2)(b) was taken to the dining room to sit with § 87(2)(b). PO Baker and Sgt. Schwartz returned to § 87(2)(b)'s bedroom and § 87(2)(b) and § 87(2)(b) both heard drawers opening and closing. Approximately 10 to 15 minutes later, § 87(2)(b) was removed from the location. Sgt. Schwartz approached § 87(2)(b) with a "hunting knife," which had been removed from § 87(2)(b)'s room, in his hand. § 87(2)(b) later learned that officers discovered marijuana, which had been inside of a laundry bag. § 87(2)(b) believed that the marijuana could only have been recovered as the result of a search.

During her phone statement, § 87(2)(b) stated that after § 87(2)(b) was taken out of the bedroom she heard drawers "banging" which indicated to her that drawers were being opened and closed (Board Review 11). Unable to remember at which point the following occurred, § 87(2)(b) stated that at one point Sgt. Schwartz approached the occupants of the home and he said that a machete was found and that it was "probable cause." § 87(2)(b) did not recall if Sgt. Schwartz used profanity at when he approached with the "machete."

The Criminal Court Complaint (CCC) (Board Review 12), prepared by PO Baker, stated that PO Baker "observed a quantity of marijuana from a laundry bag."

During his CCRB interview, PO Baker stated that while he was in § 87(2)(b)'s bedroom with § 87(2)(b) he observed an unidentified amount of packaged marijuana and a "brass knuckle knife" on a dresser located to the immediate right after entering (Board Review 18). Both objects were observed in plain view and no searches were conducted to recover the objects. Other than the plain view search, PO Baker did not conduct any searches while in § 87(2)(b)'s bedroom. PO Baker did not re-enter § 87(2)(b)'s bedroom after removing him.

Also during his CCRB statement, PO Baker was presented the CCC that noted marijuana was recovered from a laundry bag in § 87(2)(b)'s bedroom. PO Baker stated that the search resulting in the recovery of the marijuana occurred after the search warrant was obtained and that he prepared the CCC after the execution of the search warrant.

Sgt. Schwartz stated that after entering § 87(2)(b)'s bedroom, marijuana was observed in plain view on a dresser (Board Review 19). While in the bedroom, Sgt. Schwartz believed that he smelled additional marijuana in the bedroom. Sgt. Schwartz exited the bedroom before § 87(2)(b) was taken out and he informed the other officers in the apartment that the location would be "frozen" until a search warrant was obtained for the location. Sgt. Schwartz did not open any drawers while he was in the bedroom and he did not see PO Baker do so.

Sgt. Quigley, PO Feller, PO Moloney, and PO Gonzales did not see or hear any indication that either PO Baker or Sgt. Schwartz searched any drawers in § 87(2)(b)'s bedroom (Board Review 13) (Board Review 14) (Board Review 15) (Board Review 16).

§ 87(2)(g)

Allegation E -Discourtesy: At § 87(2)(b) in Brooklyn, Sergeant Charles Schwartz spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that Sgt. Schwartz brought the knife that was recovered in § 87(2)(b)'s bedroom, to § 87(2)(b) and stated, “Your fucking son is an asshole, what is he going to do with this?”

§ 87(2)(b) did not hear this conversation and he did not believe that he was present for this interaction.

§ 87(2)(b) stated that Sgt. Schwartz approached § 87(2)(b) with a machete and that he stated that it was “probable cause.”

Sgt. Schwartz denied ever saying this, and none of the other officers present heard Sgt. Schwartz say this.

§ 87(2)(g)

Allegation F -Abuse: At § 87(2)(b) in Brooklyn, Sergeant Patrick Quigley questioned § 87(2)(b)

It is undisputed that after § 87(2)(b) and § 87(2)(b) were taken out of the apartment, Sgt. Quigley approached § 87(2)(b) to speak to her.

§ 87(2)(b) stated that Sgt. Quigley approached her alone and asked her how many kids she had. § 87(2)(b) told him that she had six kids. Sgt. Quigley asked her if either of her daughters in Staten Island or Brooklyn had “the shotgun” in their house. § 87(2)(b) denied that her daughters owned a shotgun (Board Review 11).

Sgt. Quigley stated that at the end of the interaction, he approached § 87(2)(b) and he explained what the process of obtaining a search warrant would be. He asked her if there was family she could go by while the home was frozen and searched. She responded that her daughter lived nearby and that she could go there. Sgt. Quigley did not ask § 87(2)(b) if there was a shotgun at any of her daughters’ homes or about any firearms at all (Board Review 13).

§ 87(2)(g)

Allegation G -Discourtesy: At the 76th Precinct stationhouse, Sergeant Patrick Quigley spoke discourteously to § 87(2)(b)

Allegation H -Abuse: At the 76th Precinct stationhouse, Sergeant Patrick Quigley threatened to arrest § 87(2)(b) to § 87(2)(b)

Allegation I -Abuse: At the 76th Precinct stationhouse, Sergeant Patrick Quigley threatened to damage § 87(2)(b)'s property to § 87(2)(b)

It is undisputed that Sgt. Quigley debriefed § 87(2)(b) at the 76th Precinct stationhouse.

§ 87(2)(b) stated that after he was taken to the 76th Precinct stationhouse, he was taken into an interview room and debriefed two times. The first time he was taken into the interview room by Sgt. Quigley and Police Officer Julio Rodriguez, of the 76th Precinct. During that first

conversation, the officers asked § 87(2)(b) information about “who sells in the neighborhood,” whether or not § 87(2)(b) sells “drugs,” and if § 87(2)(b) had weapons in his apartment. After § 87(2)(b) told Sgt. Quigley that he did not have any weapons, Sgt. Quigley said, “Give me the fucking gun.”

Approximately two hours after the first debriefing, § 87(2)(b) was taken into the interview room by Sgt. Quigley and Sgt. Schwartz. Sgt. Quigley asked § 87(2)(b) similar questions regarding drugs and weapons. § 87(2)(b) continued to tell the officers that he did not have any information to give them. In response Sgt. Quigley told § 87(2)(b) that he believed § 87(2)(b) was lying. Sgt. Quigley told § 87(2)(b) that he was going to “lock § 87(2)(b) up” if he did not give him a gun and that he was going to “destroy” § 87(2)(b) (Board Review 09).

Sgt. Quigley stated that he took § 87(2)(b) into his office to debrief him on February 23, 2017 once. He did not recall the exact content of the debriefing and he stated that he “may have” discussed ammunition found in the apartment, but he does not “typically” discuss the debriefed individual’s case at that time. The goal of debriefings is to “gather intelligence” regarding possible crimes the individual may have information about. Sgt. Quigley did not recall if he asked § 87(2)(b) questions related to weapons being in the apartment. He did not say, “Give me the fucking gun.” Sgt. Quigley stated that he mentioned § 87(2)(b) during the debriefing to ask about her well-being. He did not threaten to arrest § 87(2)(b) Sgt. Quigley did not threaten to “destroy” the apartment.

PO Rodriguez stated that he did not hear Sgt. Quigley say, “Give me the fucking gun” or, that he was going to “destroy” the apartment. Sgt. Quigley did not say that he was going to arrest § 87(2)(b) at any point during the debriefing (Board Review 17).

Sgt. Schwartz stated that he did not enter an interview room with Sgt. Quigley and § 87(2)(b) at any point on February 23, 2017 (Board Review 19).

§ 87(2)(g)

Allegation J -Abuse: At § 87(2)(b) in Brooklyn, Officers damaged § 87(2)(b) s property.

Allegation K -Abuse: At § 87(2)(b) in Brooklyn, Officers damaged § 87(2)(b) s property.

Both § 87(2)(b) and § 87(2)(b) alleged that when they returned to their apartment after it was searched, they found their property damaged. They were unable to provide identifying information because they were not present for the search. The officers who were present did not acknowledge damaging the property, seeing the property being damaged, or hearing about the alleged property damage. § 87(2)(g)

Squad: 12

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date